

Montana Department of Natural Resources and Conservation  
Water Resources Division  
Water Rights Bureau

**ENVIRONMENTAL ASSESSMENT**  
**For Routine Actions with Limited Environmental Impact**

**Part I. Proposed Action Description**

1. Applicant/Contact name and address: Marvin & Sharon Gookin, 3220 Hwy 7, Baker, MT 59313
2. Type of action: Application to Temporarily Change an Existing Water Right 42L 30148246
3. Water source name: Unnamed Tributary to Red Butte Creek
4. Location affected by project: Section 12, T6N, R59E, Fallon County
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits: The Applicant plans to change the purpose on 50% of Provisional Permit 42L 2016-00 to marketing in order to market that water to TransCanada Keystone Pipeline LC for a period of two years ending on March 20, 2021. The 50% of the consumptive use is equivalent to 1.26 AF. The Applicant proposes to continue stock use but reduce the herd size watering from the reservoir by half. The DNRC shall issue a change authorization if an applicant proves the criteria in 85-2-402 MCA are met.
6. Agencies consulted during preparation of the Environmental Assessment:  
(include agencies with overlapping jurisdiction)  
Montana Department of Fish, Wildlife and Parks  
Montana Department of Environmental Quality  
Montana Department of Natural Resources and Conservation  
Montana Natural Heritage Program  
Montana Sage Grouse Habitat Conservation Program  
United States Fish and Wildlife Service  
United States Natural Resources Conservation Service

**Part II. Environmental Review****1. Environmental Impact Checklist:**

<b>PHYSICAL ENVIRONMENT</b>
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**WATER QUANTITY, QUALITY AND DISTRIBUTION**

**Water quantity** – The source of water for this project is an unnamed tributary (UT) to Red Butte Creek. The source is an intermittent source but is not listed as a chronically or periodically dewatered stream by the Montana Department of Fish, Wildlife and Parks. The intermittent character of the stream implies that at some times it is dewatered. Water in the UT is diverted by an on-stream reservoir when it is available. Depletion of the UT by the proposed project will not change the timing or severity of dewatering. Marketing of some of the water withdrawn from the reservoir, without increasing the withdrawal, will not change the depletion to the UT or quantity of water available.

*Determination:* No significant impact

**Water quality** – Marketing use of water impounded in a reservoir will not affect surface water quality. The UT to Red Butte Creek is not listed by the Montana Department of Environmental Quality as quality impaired or threatened. Water marketed to TransCanada will be used for dust suppression and hydrostatic testing. These activities have no potential to affect water quality.

*Determination:* No significant impact

**Groundwater** – Changing the use of some water impounded by a reservoir from stock to marketing would not impact groundwater quality. Stock and marketing are both 100% consumptive so no change in return flow would occur.

*Determination:* No significant impact

**DIVERSION WORKS** – The means of diversion is an existing on-stream reservoir from which marketed water would be pumped by the buyer. The diversion has been in place for forty years, includes no riparian areas, and will not create a barrier to wildlife. Marketed water used for dust suppression would be pumped into trucks at the reservoir.

*Determination:* No significant impact

#### **UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES**

**Endangered and threatened species** – Based on a search parameter of T6N, R59E, Fallon County, the Montana Natural Heritage Program lists the Great Blue Heron, Ferruginous Hawk, Loggerhead Shrike and Greater Sage Grouse as animal species of concern. There are two listed plant species of concern: Raceme Milkvetch and Silver Bladderpod. Use of water for marketing will not impact any habitat for the listed species. No barriers would be created because the dam already exists, and the stream is intermittent. The Greater Sage Grouse is listed as a species of concern in T5N, R59E, Fallon County, and mapping by the Montana Sage Grouse Habitat Conservation Program includes the project area in Sage Grouse habitat. A letter to the Applicant from Carolyn Sime, dated February 14, 2020, contains best management practices but concludes that the project is not subject to Executive Order 12-2015. Water marketed to TransCanada will be used along the proposed pipeline right-of-way which includes areas mapped as Sage Grouse habitat. TransCanada Keystone Pipeline LP will be required to consult with the Montana Sage Grouse Habitat Conservation Program if they have not already done so.

*Determination:* No significant impact

**Wetlands** – There are no mapped wetlands in the project area and no wetlands are proposed. The presence of wetlands along the pipeline right-of-way is unknown.

*Determination:* No impact

**Ponds** – The existing reservoir that would serve as the means of diversion for the proposed appropriation is the only pond in the area. No additional ponds are proposed. The open water represented by the reservoir would tend to have a positive impact on wildlife and waterfowl. Ponds proposed for creation or elimination by TransCanada along the pipeline right-of-way were not indicated in the change application.

*Determination:* Possible positive impact

**GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE** – The dominant soils in the project area are silt loams according to soil maps from the United States Natural Resources Conservation Service. These soils are well drained and non-saline to moderately saline. The slopes in the area are low and changing some stock water to the purpose of marketing will not alter the soil stability. Changing a portion of the water right to marketing has no potential to affect or cause saline seep.

*Determination:* No significant impact

**VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS** – Existing vegetative cover in the area of the point of diversion and place of use requested in the change application is native grasses used for livestock grazing. There will be no change to the vegetative cover. Installation of pumps and transportation of marketed water has the potential to introduce noxious weeds. It will be the responsibility of the land owner to monitor and control noxious weeds.

*Determination:* No significant impact

**AIR QUALITY** – Marketing a portion of an existing water right has no potential to negatively affect air quality. Dust suppression, one of the proposed uses of marketed water, is specifically intended to protect air quality.

*Determination:* No impact

**HISTORICAL AND ARCHEOLOGICAL SITES** – The proposed project is not on State or Federal Lands.

*Determination:* Not applicable

**DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY** – No other demands on environmental resources not addressed above are recognized.

*Determination:* No significant impact

## HUMAN ENVIRONMENT

**LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS** – There are no known local environmental plans or goals.

*Determination:* Not applicable

**ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES** – There are no roads to or through the proposed project area and no recreational or wilderness sites in the vicinity.

*Determination:* No impact

**HUMAN HEALTH** – Marketing a portion of an existing water right has no potential to affect human health.

*Determination:* No impact

**PRIVATE PROPERTY** - Assess whether there are any government regulatory impacts on private property rights.

Yes\_\_\_ No\_\_**X**\_ If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.

*Determination:* No significant impact

**OTHER HUMAN ENVIRONMENTAL ISSUES** - For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.

*Impacts on:*

- (a) Cultural uniqueness and diversity? No significant impact
- (b) Local and state tax base and tax revenues? The value of the marketed water is probably greater than the value of agricultural production available from the stock use and would increase tax revenue. TransCanada's pipeline would also increase the tax base and revenue.
- (c) Existing land uses? No significant impact
- (d) Quantity and distribution of employment? Use of the marketed water to allow construction and testing of a pipeline would temporarily increase local employment.
- (e) Distribution and density of population and housing? Temporary increases in the population would occur along the pipeline right-of-way and additional housing would be required on a temporary basis.
- (f) Demands for government services? No significant impact

(g) Industrial and commercial activity? The marketed water would allow for construction and operation of the pipeline increasing industrial activity. Sale of the water would require trucks to haul the water and a temporary increase in commercial traffic.

(h) Utilities? No significant impact

(i) Transportation? Trucking of water would increase use of public infrastructure.

(j) Safety? No significant impact

(k) Other appropriate social and economic circumstances? No significant impact

**2. *Secondary and cumulative impacts on the physical environment and human population:***

Secondary Impacts: Marketing of water to TransCanada Keystone Pipeline LC has potential secondary impacts associated with construction, testing and operation of the pipeline. The pipeline has undergone extensive environmental analysis independent of this change to market water. Many of the secondary impacts attributable to the use of the marketed water are addressed above.

Cumulative Impacts: No cumulative impacts are recognized.

**3. *Describe any mitigation/stipulation measures:* None**

**4. *Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:*** The only alternative to the proposed project is the no-action alternative. The no-action alternative prevents the landowner from selling a portion of his water right and deprives the land owner of financial benefit. The no-action alternative does not prevent any significant environmental impacts associated with the sale of water.

**PART III. Conclusion**

**1. *Preferred Alternative:*** Issue a change authorization if an applicant proves the criteria in 85-2-402 MCA are met.

**2 *Comments and Responses:*** None

**3. *Finding:***  
Yes\_\_\_ No X\_\_\_ Based on the significance criteria evaluated in this EA, is an EIS required?

*If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action:* No significant environmental impacts to changing a portion of a water right for the purpose of marketing were recognized in the preparation of this environmental assessment and therefore the assessment is the appropriate level of analysis and an Environmental Impact

Statement is not required. The secondary impacts of selling the water to TransCanada Keystone Pipeline LC are possibly substantial, however, the statutory timeline for Departmental action on change applications precludes preparation of an EIS. Environmental impacts attributable to the use of marketed water are the responsibility of the end user.

*Name of person(s) responsible for preparation of EA:*

*Name:* Mark Elison

*Title:* Regional Manager

*Date:* 3/27/2020